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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,290

Applicant(s)

MCCAULEY, ALVIN D.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 and 18-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election of Group I and Species I in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 11-13 and 18-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the retainers supported on the window aperture (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "22" on line 8 of page 15 and "68" on line 26 of page 18.

The drawings are objected to because the arrows as set forth on line 30 of page 15 to line 1 of page 16 are not shown in figure 14.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because recitations such as "[t]he assembly" on line 3 are confusing since it is unclear if the applicant is referring to the window installation assembly or to one of the window assemblies. Recitations such as "a planform shape on line 5 is confusing since it is unclear what shape comprises a "planform" shape. Recitations such as "a complementary window aperture" on lines 7-8 is confusing since it is unclear if the applicant is referring to the window aperture set forth on line 4 or is attempting to set forth another window aperture in addition to the one set forth above. Recitations such as "center" on line 9 are confusing since it is unclear which way the window frame is centered. Is the window frame centered in the plane of the aperture or is the window frame centered with respect to a width of the window aperture? Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: each of the figures 10-13 on line 18 of page 13, figures 17-21 on line 1 of page 14, figures 22-26 on line 5 of page 14 and figures 30-33 on line 16 of page 14 each require a separate description. In other words, each of figures 10-13 should be separately described. On line 30 of page 22, it appears that "122" should be changed to --123--

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant remove the reference to the method and to include the centering aspect of the invention.

Claim Rejections - 35 USC § 112

Claims 1-10 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a window aperture" on line 5 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to one of the window apertures set forth on line 3 of claim 1 or is attempting to set forth another window aperture in addition to the ones set forth above. Recitations such as "the window assembly" on line 5 of claim 1 render the claims indefinite because it is unclear to which one of the plurality of window assemblies set forth above the applicant is referring. Recitations such as "planform shape" on line 7 of claim 1 render the claims indefinite because it is unclear what shape comprises a "planform" shape. Recitations such as "complements" on line 7 of claim 1 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and is not defined by the specification. How much does the shape of the window aperture have to be like the shape of the window assembly frame in order for the shape of the window aperture to complement the shape of the window assembly frame?

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Recitations such as "center the window assembly" on lines 11-12 of claim 1 render the claims indefinite because it is unclear which way the window frame is centered. Is the window frame centered in the plane of the aperture or is the window frame centered with respect to a width of the window aperture? Recitations such as "the planform outer shape" on line 3 of claim 14 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebhard. Gebhard discloses a mass transit window installation assembly comprising a retainer 17 configured to connect between a window assembly frame 3 and a vehicle wall panel 1 having a window aperture shaped to receive the window assembly, where the window assembly frame has a planform shape that generally complements that of the window aperture, the retainer being additionally configured to space such a window assembly frame from an inner peripheral surface of a complementary window aperture, and the retainer being additionally configured to be supported on one of a window frame and a complementary window aperture in a position to center window assembly as the window assembly is inserted into the

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aperture, a window 2 (claim 2), a trim strip ring 24 (claim 14), the trim strip includes an elongated stem (not numbered, but shown in figure 7) (claim 15), the trim strip includes an elongated seal ring (not numbered, but shown in figure 7) (claim 16), the window assembly frame 3 has a front flange 19 and is disposed against a front surface 6 of the wall panel 1 to partially cover the gap between the window frame 3 and the inner peripheral wall 5 of the window aperture, an elongated rubber seal ring 11 (claim 17).

Claims 3-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Stark. Stark discloses a mass transit vehicle window installation assembly comprising a plurality of window assembly retainers 52 securable at spaced locations around and between a window frame 14 and a window aperture (not numbered, but shown in figure 1), each retainer of the plurality of retainers being configured to connect between a window assembly frame 14 and a vehicle wall panel 64 having a window aperture (not numbered, but shown in figure 1) shaped to receive the window assembly, where the window assembly frame has a planform shape that generally complements that of the window aperture, the plurality of retainers being additionally configured to space such a window frame from an inner peripheral surface (not numbered, but shown in figure 2) of a complementary window aperture, each retainer of the plurality of retainers being additionally configured to be supported on one of a window frame and a complementary window aperture in respective positions and to cooperatively center the window assembly as the window assembly is inserted into the aperture, each retainer comprises

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a spring clip (claim 5), at least one retainer includes a spring arm 56, a mounting base 62 (claim 7), a centering/detent surface 58 (claim 9), an outer tab 60.

Claim Rejections - 35 USC § 103

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stark as applied to claims 3-7 and 9 above, and further in view of Andre et al. Andre et al. discloses a spring arm 4 comprising spring steel and having an S-shaped bend.

It would have been obvious to one of ordinary skill in the art to provide Stark with a steel construction and S-shaped configuration, as taught by Andre et al., to increase the strength and biasing force of the retainers.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stark as applied to claims 3-7 and 9 above, and further in view of Ehret et al. Ehret et al. discloses a trim strip ring 76 including an elongated stem 90, an elongated seal ring 84, a front flange 70 and an elongated rubber seal ring 74.

It would have been obvious to one of ordinary skill in the art to provide Stark with a trim strip ring and a front flange, as taught by Ehret et al., to provide a better seal between the window pane and the aperture.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nieboer et al., Pavnica, Fiala et al., Otterson, Madsen, McManus, Garman and Wentink are cited for disclosing fastening clips for retaining a

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window panel in a window frame. Lyons et al. and Harris are cited for disclosing a means for mounting a window pane within a window frame.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu". The signature is fluid and cursive, with a large, stylized initial "G" and "S".

Gregory J. Strimbu
Primary Examiner
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February 3, 2004